IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 28TH SEPTEMBER 2006 / 6TH ASWINA 1928

OP.No. 23968 of 2001(C)

PETITIONER:

M.MUHAMMAD JINNAH,
ALNOOR, JANATHA JUNCTION,
VENKULAM, EDAVA P.O,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.A.MANHU

RESPONDENTS:
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1. **KERALA FINANCIAL CORPORATION LTD.,**
   REPRESENTED BY THE MANAGING DIRECTOR,
   VELLAYAMBALAM, THIRUVANANTHAPURAM 695033

2. **THE DISTRICT MANAGER, K.F.C.**
   DISTRICT OFFICE, VELLAYAMBALAM,
   THIRUVANANTHAPURAM 695033

3. **THE DEPUTY TAHSILDAR,**
   REVENUE RECOVERY,
   K.F.C.
   VELLAYAMBALAM, THIRUVANANTHAPURAM 695033

BY ADV. SRI.V.B.UNNIRAJ, SC, K.F.C FOR R1 AND R2
SMT.K.SEEMA
GOVERNMENT PLEADER SRI.P.SALIM FOR R3

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.23968/2001

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: PHTOCOPY OF THE SALE NOTICE DATED 23.03.90 WITH THE SCHEDULE OF THE MOVABLES ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P2: PHTOCOPY OF THE LETTER DATED 07.11.1996 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT P3: PHOTOCOPY OF THE REPRESENTATION DATED 25.11.96 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT IN REPLY TO EX.P2 NOTICE.

EXHIBIT P4: PHOTOCOPY OF THE LETTER DATED 31.07.2000 ISSUED BY THE 2ND RESPONDENT OT THE PETITIONER SHOWING THE PRINCIPAL ARREARS AND INTEREST AT RSS.13,73,006/-

EXHIBIT P5: PHOTOCOPY OF THE NOTICE DATED 07.07.2000 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXHIBIT P6: PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT IN REPLY TO EX.P5 NOTICE.

EXHIBIT P7: PHOTOCOPY OF THE NOTICE DATED 23.07.2001 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER REQUIRING HIM TO REMIT RS.82,088/- TOGETHER WITH INTEREST AT THE RATE OF 11.75% WITH EFFECT FROM 01.07.1985

EXHIBIT P8: PHOTOCOPYOF THE REPLY SUBMITTED BY THE PETITIONER TO EX.P7 NOTICE ISSUED BY THE 3RD RESPONDENT.

//TRUE COPY//

P.A TO JUDGE

OP NO.23968/2001

ORDER ON C.M.P. NO.39274/2001 IN O.P.NO.23968/2001

DISMISSED

28.09.2006 **Sd/-**
C.N.RAMACHANDRAN NAIR,JUDGE

C.N.RAMACHANDRAN NAIR, J.

O.P. NO. 23968 OF 2001

Dated this the 28th day of September, 2006

J U D G M E N T

The order under challenge is arrest of the defaulter ordered under Section 65 of the Revenue Recovery Act. This court issued a detailed order on 07.04.2006 directing KFC to conduct an enquiry through any agency to find out means or wealth of the defaulter. It is reported by the counsel for KFC today that enquiry was conducted as directed by this court and the finding is that petitioner has no means. In the circumstances, OP has to be allowed, quashing Exhibit P7 proceedings.

2. OP is allowed accordingly.

Respondents are free to proceed with other steps of recovery.

C.N.RAMACHANDRAN NAIR,
JUDGE

Rp